

EXHIBIT B

CONTRACT BETWEEN THE CITY OF FLINT
AND THE COUNTY OF GENESEE RELATIVE
TO WATER SUPPLY

This Agreement, made this 28th day of June, 1972,
by and between the CITY OF FLINT, a Michigan Home Rule City Corporation (hereinafter
referred to as the City) and the COUNTY OF GENESEE, a Michigan County Corporation
(hereinafter referred to as the County) acting by and through the Genesee County
Drain Commissioner (hereinafter referred to as the County Agent), having been designated
as such by appropriate legislation in compliance with Act 342 of the Public Acts
of 1939, and any subsequently named Agent for the County of Genesee, this agreement
limited, however, to the geographic area of the County of Genesee.

1. SALE, DELIVERY AND PURCHASE.

That, subject to the conditions hereinafter provided, the City agrees to ex-
clusively sell and deliver water to the County Agent, and subject to the conditions
hereinafter provided, the County Agent agrees to purchase exclusively all water
he sells from the City of Flint for all Genesee County with the exception of Fenton
and Argentine Townships and the City of Flint, it being specifically understood
that water purchased from the Flint system shall not be used to supply any governmental
units or private persons outside Genesee County.

2. RECEIVING, STORAGE AND WATER QUALITY.

A. That the City shall provide, and the County Agent on behalf of the County
shall receive water at approximately 20 psi, at such point or points as may from
time to time be mutually agreed upon by the parties hereto.

B. That the County Agent shall provide and utilize sufficient controlled storage
and re-pumping facilities to meet the demands of the users of said system without
drawing from the water system of the City at any rate in excess of that rate which,
if maintained constantly through each 24 hour day, would provide the total quantity
of water necessary to supply the requirements of the county users during the same
24 hour day. Provided further that no new storage and re-pumping facilities shall
be required unless it has been determined by the City that its storage facilities
and/or pumping facilities are inadequate to supply sufficient water to the City
and County customers at that location at periods of peak demand. Such above water
use shall be temporary in nature and at the option of the City.

C. That the County Agent shall accept water as delivered from the water system of the City provided said water meets all requirements of the various State regulatory agencies.

D. That the County Agent shall at no time during the life of this contract, grant the right to any person, firm, unit of government, corporation or business association whatever other than the City, to sell water within the limits of the County. It is agreed that this provision goes to the essence of this contract and breach thereof will be sufficient reason, at the option of the City, to immediately suspend delivery of water to the County water system.

E. That there shall be no physical connection between the water system of the City and the water system of the County without the approval of the City.

3. CONSTRUCTION, EXTENSIONS, RECORDS AND SERVICE AREA.

A. That no construction, operation, extensions or addition of water mains or pipes shall be made and no pumping, water storage or other water facilities shall be installed in the areas where the County had established a water system without clear and complete plans and specifications for such work being submitted to and approved by the Director of Public Works of the City prior to such work being done. Such approval or disapproval shall be made within 30 calendar days after said plans and specifications are submitted, or approval may be assumed. It is mutually agreed that the City may inspect County water facilities under construction and County water system operations at its option at all reasonable times and places.

B. That suitable records shall be created and maintained by the County Agent of the number and sizes of service connections and the daily and hourly rates of consumption of city water through the County water facilities.

Said records shall be available to the City at all reasonable times and places.

Further, the County Agent shall furnish to the City without cost, a large wall map of the County water supply system. Said map shall be at least the scale of 1" equals 600 ft. Further, "as built" plans of the new mains and appurtenances, excluding individual service connections, shall be provided to the City within 6 months after substantial completion of construction. Said map shall be kept reasonably current by periodic revision, without cost to the City.

Any existing water system within the County shall not be supplemented with water purchased from the City except with the written approval of the City.

4. METERING, RATES AND FINANCIAL ARRANGEMENTS.

A. That all water supplied to the County system by the City shall be measured by a meter or meters installed at a mutually agreed point or points of delivery. The meter or meters shall be furnished and installed at the expense of the County Agent under the supervision and inspection of the City or its authorized agents. All meters shall be housed in an appropriate structure. Said meter or meters shall be of a size and make satisfactory to the City, and subject to its inspection at all times. All necessary valves, appurtenances and flow control devices shall be included in the installation as required. The City shall maintain or have maintained said meter or meters at the expense of the County Agent and promptly make such repairs and/or adjustments as may from time to time be necessary. The County Agent shall accept the City's estimates of quantities of water supplied during all periods in which there is a reasonable basis for believing that the meter or meters failed to accurately measure all water delivered to the County system. Such estimates are to be based upon prior use and/or engineering calculations from available data and/or records. The timely maintenance of meter pits and/or meter locations shall be the responsibility of the County Agent. Any faulty and/or non-repairable meters shall be replaced by the County Agent at his expense and in accordance with the provisions cited above.

B. The County Agent shall pay for all water delivered to the County system. Delivery shall be complete at such time as the water use is recorded on the meter or meters as provided in paragraph 4-A herein.

C. That the rate of payment by the County Agent to the City for all water delivered directly off the 72" City transmission main shall be 1.3587 times the rate the City pays the Detroit Water Board for water supplied. The 72" transmission line is that line completed in 1967 from about Baxter and Potter Roads westerly to the city limits at Branch and Pierson Roads. The rate of payment by the County Agent to the City for all other water delivered at points of connection to the City's distribution system shall be at the rate of 1.50 times the rate established by ordinance for in-city water users. Minimum monthly bills for given water meter sizes, and water quantities shall be those provided for in the ordinances of the City of Flint.

All quantities of water delivered from the 72" pipeline, as defined above, shall be charged in one billing however many points of delivery may be installed. There shall be no minimum billing charged.

D. That bills for water delivered shall be rendered monthly to the County Agent. They shall be payable on or before the due date shown thereon which shall be approximately 15 days from the date of mailing. There shall be a further charge of ten percent (10%) of the amount of the bills if the bills are not paid on or before the due dates. Water service to the County system may be discontinued if the bills are not paid within 30 days, and the County Agent and his surety agree to save the City harmless from all damage claims resulting from discontinuance of service occasioned by the failure to pay said water bills. The Flint water supply system is subject to the provisions of the Revenue Bond Act which prohibits free water supply and in the event water supplied to the County Agent is not paid for the City must discontinue supplying water to the County system.

The City agrees to extend at the option of the County Agent the due date of the first monthly billing, rendered as described above, for an additional 60 days and second monthly bill so rendered an additional 30 days, without the 10% additional charge.

5. TERM OF CONTRACT AND TERMINATION

A. That the City shall supply and sell water exclusively to the County Agent and the County Agent shall receive and purchase exclusively said water in accordance with the terms of this agreement for a period of 40 years from date hereof. This contract may be terminated by either party after expiration of said 40 year period, upon one year's written notice served upon the opposite party by delivering the same to the Clerk of the City or to the County Agent as the case may be, or may be terminated at any time by mutual consent of the parties. Provided however, that the terms of the contract hereinafter referred to existing between the City of Flint and the City of Detroit by its Board of Water Commissioners and any possible renewal thereof may prevent the City from complying with the maximum term herein provided and in that event such term of 40 years shall be modified by the provisions of the herein described contract.

B. That no failure or delay in the performance of this agreement by either party shall be deemed to be a breach thereof when such failure or delay is occasioned by or due to any act of God, strikes, lockouts, wars, riots, epidemics, explosions, sabotage, breakage or accident to machinery or lines or pipes; the binding order of any court or governmental authority any other cause, whether of the kind herein enumerated or otherwise, not within the control of either party provided, however,

that no cause or contingency shall relieve the County Agent of his obligation to make payment for water delivered by the City.

6. CONSTRUCTION, OWNERSHIP AND USE OF FACILITIES.

A. That all facilities in existence, constructed with City of Flint funds, or constructed subsequent to the date of this agreement with City funds which may be used by the City to deliver water within the jurisdiction of the County Agent shall remain the property of the City.

B. It is mutually understood and agreed that the County water system mains may be connected to the mains serving other areas for flow in either direction to provide an adequate water supply from the City system to the County's system and to other areas and/or units of government and to provide for efficient operation of the entire water supply system. The City agrees that any connections made will be in accordance with accepted water system distribution practice, and that no connection will be made that will at any time adversely affect the water system of the County. The City will provide the County agent plans and specifications 30 calendar days or more prior to making changes as indicated above.

C. The supply of water may be temporarily discontinued to the County system and/or regulated whenever it is necessary to do so to insure proper operation of the water system of the City, except that under emergency conditions, the Flint Department of Public Works may take immediate steps to regulate or discontinue flows to the County system. No claims for damages for such discontinuance or decreases in flow may be made by the County Agent or his customers against the City. Any restrictions upon water use imposed on the users in the City shall also be imposed on the users of the County system. The County Agent and his surety shall hold the City harmless from any and all claims, actions and causes of action which arise with reference to such regulations, limitation or discontinuance.

D. The City shall provide water to the County system at such points as may be mutually agreed upon and in amounts generally sufficient to supply the County's system use. The County Agent shall construct, maintain and operate such water meter pits, storage facilities, control facilities, pumping facilities, appurtenances and connecting lines as may be required. The maximum demand at any point of supply shall not exceed that amount determined in writing by the City to be available at that point.

7. CONTRACT PROVISIONS IMPOSED ON THE CITY OF FLINT.

That the City purchases the water to be delivered under the provisions of

this contract from the City of Detroit pursuant to the terms of a certain contract dated the 20th day of December, 1965. That contract provides the terms and conditions under which the City purchases water and it is specifically understood between the parties hereto that the terms and conditions of this contract must be and are subordinate to the provisions of the contract between the City of Flint and the City of Detroit. That the obligations and rights of the parties herein provided are modified, restricted, terminated and changed as the ability of the City to comply with this contract is affected by the requirements and provisions of the contract between the City of Flint and the City of Detroit.

8. MISCELLANEOUS.

A. That this agreement shall take effect upon its adoption and execution by the respective parties hereto.

B. That this agreement shall inure to the benefit of and be binding upon the respective parties hereto.

C. "It is hereby agreed that the County Agent shall in no way, in whole or in part, transfer, assign or in any way alienate his interests, rights or obligations under this contract without the expressed approval in writing of the City.

D. The County Agent and his surety hereby agree to protect and hold harmless the City from any and all liability arising out of the construction, operation and maintenance of the facilities constructed pursuant to this agreement by the County Agent or his agents excepting causes arising out of the negligent acts or omissions of the City.

E. The County Agent is to furnish the City copies of all pertinent resolutions and/or other data showing whereby the County Agent became or becomes the agent for the various governmental agencies and governmental units receiving water under the terms of this agreement.

9. REVIEW PROCEDURE.

It is further provided that any and all decisions of the County Agent relative to the furnishing of water to individual customers or areas, and all priorities and schedules with reference to same within the area set forth in this contract shall be subject to review, upon proper application, by the Public Works Committee of the Genesee County Board of Commissioners, or any duly designated successor to that Committee, or by any board, commission or body duly designated to perform the functions currently carried on by said Committee. Applications shall be made

in a manner to be prescribed by the Genesee County Board of Commissioners and procedures relative thereto shall be prescribed by said Board.

If the Public Works Committee of the Genesee County Board of Commissioners, in its discretion, finds that the decision of the County Agent is arbitrary, or is such as to improperly and unreasonably discriminate against customers or areas similarly situated or is such as to create unnecessary hardships, it shall issue a report to that effect which shall also contain a course of recommended action. Upon receipt of such report the County Agent shall be required to revise his plans and such revision shall be similarly subject to review. This provision shall not relieve the County Agent of his obligation to comply with the provisions of paragraph 3-A hereof.

10. SPECIAL PROVISIONS.

A. The parties hereto make this agreement with the knowledge that Act 342 now provides that other agencies than the County Drain Commissioner may be designated as County Agent. It is the intent of all parties that this agreement shall be binding and effective between the County and the City notwithstanding any change in designation of the County Agent.

This contract supercedes all other existing contracts between the City and County Agent for the supply of water for limited areas within the County of Genesee and these previous contracts are hereby terminated by mutual agreement of the parties, except for those particulars noted in paragraphs 10-B and 10-C below.

B. The water meter and water mains in the City of Burton in the East Court Street area near Center Road shall be turned over without cost to the County Agent for operation and maintenance under the terms of this contract within 30 days after signing.

The transfer of ownership and possession of the mains and/or facilities herein provided shall take place upon revocation by the appropriate governmental units, of any and all franchises by virtue of which the City has furnished services through such facilities and the installation of approved master meters. The change of water suppliers to the said mains and/or customers shall be at a mutually agreeable time and place and in an agreed upon manner.

The transfer of the City's right, title and interest in said mains is subject to the following terms and conditions: The County Agent agrees to accept such mains and/or facilities in their existing condition and there shall be no warranties expressed or implied as to the condition, serviceability, adequacy, quality, etc

of such mains and/or facilities. The County Agent further agrees to assume all obligations and duties of the City with reference to such mains and/or facilities, and the County Agent waives any and all rights, actions or causes of action, that he might have against the City with reference to the transfer of said mains and/or facilities. The County Agent further agrees to assume any and all obligations heretofore assumed by the City with reference to said mains and/or facilities. The City has no current knowledge of any such obligations.

C. The City owns and operates certain transmission lines and water mains and other facilities within the geographic limits of the County of Genesee and outside the City of Flint. It is mutually agreed that such ownership and use of such facilities is hereby retained by the City and ownership and use will only hereafter be transferred by mutual agreement of the parties hereto.

It is the intention of the parties hereto that the County Agent will purchase water in large quantities from the City water system and that he will distribute water to the individual users from a water distribution system constructed by the County Agent for that purpose and that individual customers of the County Agent will not be serviced from the Flint system and that such individual users now located in the County serviced from the City system shall remain the customers of the City system until such time as water mains are located within the County so that such individual users may secure water service from the County system.

The County Agent has acquired all of the City's right, title and interest in certain water facilities in the public right-of-way serving the Flint Sewage Plant on Beecher Road and the Flint Park Board property on Linden Road. The County Agent has acquired and/or operates the 12" water main on Bristol Road that currently supplies water to Bishop Airport. The aforescribed sewage treatment plant, park board property and Bishop Airport shall continue, however, to receive water through such facilities. The quantity of water delivered to such properties owned by the City shall be deducted from billings to the County Agent. The deduction shall be made from the water supplied through the Donaldson Street meter as long as the amount supplied equals or exceeds the amount used by the City. All water used by the City in excess of that supplied through the Donaldson Street meter shall be deducted from the water supplied through the 72" transmission main. It is mutually agreed that a capacity of 600 GPM shall be allocated for use by said City properties. The service now being rendered by such water facilities is sufficient for the City's purposes and it is agreed that no assessment shall be made against said properties

for other water facilities. That all water supplied by the County Agent to the Flint Sewage Plant, Flint Park Board property on Linden Board and Bishop Airport shall be measured by meters approved by the County Agent and furnished and installed by the City under the inspection of the County Agent. The meters shall be subject to the inspection of the County Agent at all reasonable times.

The rights above enumerated, which are retained by the City by virtue of this agreement, shall be permanent in nature and shall continue indefinitely at the option of the City and the retention of these rights shall not be construed, in any way as creating any liabilities on the part of the City with reference to said facilities.

It is understood and agreed that water supplied to the Flint Sewage Plant, the Flint Park Board property and Bishop Airport, shall be in accordance with this section only as long as said water is used for facilities on the properties owned by the City.

It is agreed that limitations of flows and points of connection to the City water system now in effect, pursuant to prior contracts shall remain in use and effect unless discontinued by mutual consent. Those transfers of water mains and facilities that occurred under previous contracts shall continue and be observed by both parties to this contract.

WITNESS:

Linda Courneya
Lynne Johnson
Dunda B. Wacker
Bill Carlson

Kelly B. Bensch
Stanley Butynski

CITY OF FLINT

By Francis E. Linneman

By Joseph A. Henderson

COUNTY OF GENESEE

By Joseph A. Fessell

By George W. Hiram

COUNTY AGENT

By Anthony Ragnone

Approved as to form:

Patrick H. Hoyer
City Attorney